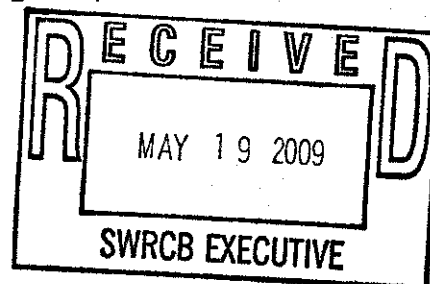


6/4/09 Board Workshop  
Water Quality Enf. Policy  
Deadline: 5/28/09 by 12 noon

3152 Shad Court  
Simi Valley, CA 93063  
May 19, 2009

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
Office of Enforcement  
1001 I Street  
Sacramento, CA 95814



Re: "Water Quality Enforcement Policy Workshop 6/4/09."

Dear Ms. Townsend:

The following are my comments on the aforementioned subject for the Board's consideration.

MAY 8, 2009 LEGAL NOTICE

- #1 - Page 1, the statement, under BACKGROUND, that "Timely and consistent enforcement of these laws is critical to the success of the water quality program and to ensure that the people of the State have clean water" is great, unfortunately, my experience in addressing the Boeing Company's Santa Susana Field Laboratory's NPDES permit, the Ventura Countywide MS4 NPDES permit, and Ventura County cities NPDES permits has taught me that the opposite is true of the Los Angeles Regional Water Quality Control Board. Also, since this is the fourth workshop being held on this subject, even the State Water Board does not stick to timely enforcement of the water quality laws.
- #2 - Page 1, the statement, under BACKGROUND, that "the Water Boards will strive to be fair, firm and consistent in taking enforcement actions" is great, unfortunately, after reading about the Los Angeles Regional Water Quality Control Board's May 7, 2009, and May 8, 2009 decisions on the Ventura Countywide MS4 NPDES permit, and the Boeing Company's Santa Susana Field Laboratory's NPDES permit and cease and desist order the actions were not fair, or consistent.

MAY 6, 2009 DRAFT

- #1 - Page 1, first paragraph, second to last sentence, it is stated "In adopting this policy, the State Water Board intends to provide guidance that will enable Water Board staff to expend their limited resources in ways that openly address the greatest needs, deter harmful conduct, protect the public, and achieve maximum water quality benefits." Is "Water Board staff" correct, or is this supposed to read "Water Boards' staff"?
- #2 - Page 1, third paragraph, last two sentences, it is stated "Appropriate penalties and other consequences for violations offer some assurance of equity between those who choose to comply with requirements and those who violate them. It also improves public confidence when government is ready, willing and able to back up its requirements with action..." Because of the Los Angeles Regional Water Quality Control Board's weak enforcement program "to back up the cooperative approach" with the Boeing Company on the Santa Susana Field Laboratory's NPDES permit the public's confidence has been shaken. The Board's action was also a slap on the faces of dischargers who comply with their requirements.
- #3 - Page 2, paragraph after the bullet points, it is stated that "State law also allows members of the public to bring enforcement matters to the attention of the Water Boards and authorizes aggrieved persons to petition the State Water Board to review most actions or failures to act of the Regional Water Boards." This statement is great, but there is a grey area--the State Water Board might not want to oversee public petitions involving a Regional Water Board's action or failure to act with regards to correcting permit documents' inaccuracies and incompleteness, or to Regional Water Board staff's non-responses to submitted comments because valuable time would be taken away from more pressing matters. This was the case with the Los Angeles Regional Water Quality Control Board's Ventura Countywide MS4 NPDES permit documentation. I submitted 5

letters(3 by the deadline, 2 within days of the deadline) detailing various inaccuracies, and a few incompleteness along with concerns, and recommendations. None of the 4 "Response to Comments" posted on the Regional Water Board's Website included responses to any one of my letters. It is as if I never submitted any comments, and, worse, as if I did not exist. I also requested that Boeing SSFL NPDES permit commenter Ginn Doose's name be corrected on Page 102 of 103 of "Response to Comments"(listed as "Moose") to no avail. These examples illustrate that the Regional Water Board is in violation of the "state and federal statutes" provided "for public participation in the issuance of orders, policies, and water quality control plans". The Clean Water Act's "citizens" statute allowing suits "against dischargers for certain types of CWA violations" does not remedy the violation of my public participation right. Yet, the 2009 revisions to the California Ocean Plan involve corrections. Then, too, the Amendment to the Los Angeles Region Basin Plan revising waste load allocations for the Calleguas Creek Watershed Nitrogen compounds(TMDLs) also involve corrections. Finally, the State Water Board's Draft Water Quality Enforcement Policy for the June 4, 2009 Workshop includes corrections as well. Water Boards' corrections must not carry more weight than those of "interested parties". Otherwise, the fairness doctrine under Environmental Justice--ensuring the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations in the state--is out the window(Page 3).

- #4 - Page 3, under Section E. Small Communities, second paragraph, I support the statement "In recognition of these factors, informal enforcement and/or compliance assistance will be the first steps taken to return a small and/or disadvantaged community to compliance, unless the Regional Water Board finds that extenuating circumstances apply." Too often these local governments suffer because they do not have the money like big cities to provide matching funds.

- #5 - Page 6, Section 3.a, delete the "," after "low".
- #6 - Page 10, Section V.A, it is stated "At hazardous waste facilities where the Regional Water Board is the lead agency for corrective action oversight, the Regional Water Board shall consult with Department of Toxics Substance Control (DTSC) to ensure, among other things, that corrective action is at least Federal Resource, Conservation, and Recovery Act (RCRA) equivalent." The Boeing Company's Santa Susana Field Laboratory's NPDES permit stated that in the future the discharger may be allowed non-RCRA corrective action through a DTSC Permit-by-Rule determination. This defeats the purpose of the site's Groups' RCRA RFIs, and the groundwater investigation report in the near future.
- #7 - Page 11, bullet point "Fully eliminate any competitive advantage obtained from noncompliance" must not be eliminated.
- #8 - Page 12, Steps 7 and 10, complaint is being revised with a capital "C" in Step 7, yet in Step 10, complaint is being revised with a lower case "c". This is confusing.
- #9 - Page 15, add a space between "Minor - The violation deviates..." and "Moderate - As a result of the violation..."
- #10 - I concur with the added sentences: "For violations of NPDES permit effluent limitations, the base liability should be established by calculating the mandatory penalty required under Water Code section 13385(h) and (i). The mandatory penalty should be adjusted upward where the facts and circumstances of the violation warrant a higher liability."
- #11 - Page 21, add a space after "STEP 7 -".
- #12 - Page 25, what is the "change" symbol located by "unknown claims or a waiver of rights under Civil Code section 1542" related to--there are also 3 sets of "///"?

Sincerely,

*Mrs. Teresa Jordan*

Mrs. Teresa Jordan

Enclosure:

May 18, 2009, Letter to CA Regional Water Quality Board, Los Angeles; Integrated Report Clean Water Act Section 305(b) Report and Section 303(d) List of Impaired Water Availability of Documents and Public Comment Period. (3 Pages)

3152 Shad Court  
Simi Valley, CA 93063  
May 18, 2009

CA Regional Water Quality Control Board  
Los Angeles Region  
320 West 4<sup>th</sup> Street  
Los Angeles, CA 90013  
ATTN: Man Voong

Re: LOS ANGELES REGION INTEGRATED REPORT CLEAN WATER ACT  
SECTION 305(b) REPORT AND SECTION 303(d) LIST OF  
IMPAIRED WATER AVAILABILITY OF DOCUMENTS AND PUBLIC  
COMMENT PERIOD.

Dear Man Voong:

The following are my comments from a lay person's  
perspective for the Regional Water Board's consideration.

#1 - Page 2, it is stated in the legal NOTICE, under  
Background of the 2008 Integrated Report, in the  
first paragraph that "The Regional Water Board is  
proposing to revise the surface water quality  
assessment under Clean Water Act section 305(b)  
and the list of impaired water under Clean Water  
Act section 303(d) in a 2008 Integrated Report."

By revising the surface water quality assessment  
in 2009 for the 2008 Integrated Report, the  
Regional Water Board is in essence changing the  
dynamics of NPDES permits' requirements and other  
Orders approved for pollutants in discharges that  
are impairing waterbodies throughout the region.  
It would be a different picture if the Integrated  
Report stated something to the effect that  
beginning in XX XX, XXXX the proposed criteria  
(Table 3-2 Lakes: Nutrient Concentration and  
Biological Response Indicators Criteria Limits  
(Rivers and Streams), and Table 3-3 Rivers and  
Streams: Nutrient Concentration and Biological  
Response Indicators Criteria Limits(Lakes)) will  
be used after the Board public hearing.

- #2 - Since the Tables (Draft Integrated Report, Pages 13 and 14) information is inaccurate--Table 3-2 states "Lakes" yet the information is for "Rivers and Streams", and Table 3-3 states "Rivers and Streams" yet the information is for "Lakes"--even if I had the mathematical and technical knowledge to decide which of the mg/Ls and mg/m2s better protects the health of the: 1. public, 2. aquatic life, 3. wildlife, and 4. environment, I cannot comment because my support or opposition would be flawed.
- #3 - Even if I commented on the corrected criteria Tables, and even though it is stated on Page 2 of the Tentative Resolution, top of page, that "Regional Board staff responded to oral and written comments received from the public", there is no guarantee that my comments will be responded to by Regional Board staff. Example: I submitted 5 letters on the Ventura Countywide MS4 NPDES permit (3 by the deadline, and 2 within days of the deadline). Not one of my letters' comments were responded to by Regional Board staff. Many of my comments involved inaccuracies in the documents. It is stated also on Page 2 of the Tentative Resolution, last paragraph before the Executive Officer's statement, that "If during State Board's approval process the State Board determines that minor, non-substantiative corrections to the language of the report are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Board of any such changes." The revised documents still contained the inaccuracies that my letters pointed out. The State Water Board is going to be considering corrections to the Calleguas Creek Watershed area's Nitrogen TMDLs. Thus, the Regional Board staff must revise the "Response to Comments" section of the April 30, 2009 Ventura Countywide MS4 NPDES permit.

The Regional Board staff's "Response to Comments" for the Boeing Company's Santa Susana Field Laboratory NPDES permit must also be revised to correct the misspelled name of commenter Ginn Doose--listed as "Moose" on Page 102 of 103.

- #4 - That there are 66 proposed new 303(d) listings in 35 waterbodies (Draft Integrated Report, Page 1, fourth paragraph) does not bode well for the Regional Board's responsibilities and actions. This means that enforcement continues to be a major problem in this region since according to the information on Page 19 (Draft Integrated Report) points to a number of "limitations". It is shameful that so many years have passed and just now the required Integrated Report is providing "the most complete 305(b) report for the Los Angeles Region" (last sentence, Page 19).
- #5 - I am opposed to delisting the Calleguas Creek Reach 4 (Revolon Slough Main Branch: Mugu Lagoon to Central Avenue) for Boron, Sulfates, and Total Dissolved Solids from the 303(d) list.
- #6 - I would have done a better job of addressing this extremely important subject, but already I have delayed commenting on the Department of Water Resources' Draft 2009 Water Plan Update's Volume 3 (Regional Report, specifically the South Coast) since the many draft tentative NPDES permits orders at the Regional Water Board level, and many State Water Board policies and plans that I have addressed have taken up a lot of time cross-referencing other documentation, though the information has all been priceless. Also, the Ex Parte Communications entanglement ate up a lot of my time as well. I have yet to hear from the Staff Senior Counsel from the State Water Board as to whether or not I violated the law. As long as this situation remains in limbo, I am being punished for participating in the public review and comment period because I have pointed out documents' incompleteness and inaccuracies, and in speaking out about defrauding of taxpayers.

Sincerely,

*Mrs. Teresa Jordan*

Mrs. Teresa Jordan